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CONFERENCE OF THE PARTIES

REPORT OF THE CONFERENCE OF THE PARTIES ON THE FIRST PART OF ITS SIXTH SESSION, HELD AT THE HAGUE FROM 13 TO 25 NOVEMBER 2000

Addendum

PART THREE: TEXTS FORWARDED TO THE RESUMED SIXTH SESSION BY THE CONFERENCE OF THE PARTIES AT THE FIRST PART OF ITS SIXTH SESSION

1. Part Three of the Report of the Conference of the Parties on the first part of its sixth session contains negotiating texts under consideration by the Conference.

2. This volume contains negotiating texts submitted by the President to the Conference at the ninth plenary meeting following informal consultations, and texts forwarded by the subsidiary bodies to the Conference at the third plenary meeting under agenda item 3.

3. The Conference took note of these texts, recognizing that the texts forwarded to the Conference by the subsidiary bodies, contained in document FCCC/CP/2000/INF.3 (Volumes I - V), also remain on the table.

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I. MATTERS RELATING TO LAND-USE, LAND-USE CHANGE AND FORESTRY
(Agenda item 7 (b))

Decision -/CP.6[1]

Land-use, land-use change and forestry

The Conference of the Parties,

Noting Article 3.3, 3.4 and 3.7 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change,

Recalling its decisions 1/CP.4, 8/CP.4, 9/CP.4 and 16/CP.5,

Acknowledging with appreciation the scientific advice provided in the *Special Report on Land-use, Land-use Change and Forestry* prepared by the Intergovernmental Panel on Climate Change,

Having considered the conclusions of the Subsidiary Body for Scientific and Technological Advice at its resumed thirteenth session,[2]

1. *Recommends* that the Conference of the Parties, serving as the meeting of the Parties to the Kyoto Protocol at its first session adopt the attached decision;

2. *Requests* the Subsidiary Body for Scientific and Technological Advice to consider how anthropogenic greenhouse gas emissions resulting from direct human-induced degradation and devegetation activities, not yet included under Article 3.3 and 3.4 of the Kyoto Protocol can be included into the accounting system under Article 3.4.

3. *Requests* the Subsidiary Body for Scientific and Technological Advice to elaborate, for consideration at its ___ session, the reporting requirements, including standard formats where appropriate, taking into account the input of the Intergovernmental Panel on Climate Change (IPCC) as mentioned in paragraph 4 below, to be included in the guidelines for the preparation of information under Article 7 of the Kyoto Protocol, to be recommended for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, at its first session, on the following issues:

(a) ...

(b) ...

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[1] This text was given restricted distribution at the first part of the sixth session under the symbol FCCC/SBSTA/2000/CRP.11.

[2] FCCC/SBSTA/2000/14, paras. 32 and 33.

4. *Invites* the Intergovernmental Panel on Climate Change to perform the following tasks, with a view to submitting the results for consideration at its eighth session:

(a) Elaborate methods to account for changes in carbon stocks and anthropogenic greenhouse gas emissions by sources and removals by sinks resulting from land-use, land-use change and forestry activities under Article 3.3 and 3.4 of the Kyoto Protocol on the basis of the *Revised 1996 Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories* and taking into consideration the guidance contained in the annexes to draft decisions -/CMP.1 and -/CP.6 *(the latter being decisions on Articles 6 and 12)*;

(b) Prepare a report on good practice guidance and uncertainty management related to verification, measurement, estimation, assessment of uncertainties, monitoring and reporting of net carbon stock changes and anthropogenic greenhouse gas emissions by sources and removals by sinks in the land-use, land-use change and forestry sector;

(c) Examine the feasibility of developing and the implications of applying biome-specific forest definitions, taking into account the work of other relevant international bodies, such as the Food and Agriculture Organization of the United Nations. In its consideration, the Intergovernmental Panel on Climate Change is invited to assess the impact on the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks in the land-use change and forestry sector, and possible required amendments to national systems of Parties that would result from a changeover from using one forest definition to using biome-specific forest definitions;

(d) Prepare guidance on methodologies for the quantification of emissions resulting from direct human-induced degradation of forests and other vegetation types.

Decision -/CMP.1

Land-use, land-use change and forestry

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Recalling Articles 2 and 3 of the United Nations Framework Convention on Climate Change, and Articles 2.1(a), 3.3, 3.4, 3.7 and 5.2 of the Kyoto Protocol,

Further recalling decisions 1/CP.4, 8/CP.4, 9/CP.4 and 16/CP.5 of the Conference of the Parties,

Affirming that the implementation of land-use, land-use change and forestry activities included under the provisions of Article 3 of the Kyoto Protocol shall be consistent with the objectives and principles of, and any decisions taken under, the United Nations Framework

Convention on Climate Change and its Kyoto Protocol, taking into account, as appropriate, ancillary environmental effects in developing their domestic approaches related to implementation of Article 3.3 and 3.4, including effects on biodiversity, soil, air and water quality, the capacity of ecosystems to adapt to climate change, risks of degradation, long-term vulnerability to disturbance by fire, pests and invasive species, and the protection of primary and maturing secondary native forests,

Further affirming that in the implementation of land-use, land-use change and forestry activities included under the provisions of Article 3 of the Kyoto Protocol, Parties shall avoid adverse primary and secondary environmental and social effects in developing and implementing their land-use, land-use change and forestry activities,

Affirming that:

(a) Any land-use, land-use change and forestry activity carried out in addition to the commitments made under Article 4.1(d) of the Convention for the purposes of determining compliance of Annex I Parties with their quantitative emission limitation and reduction objectives under the Kyoto Protocol, must not change the global effect of the Kyoto Protocol, which is to mitigate climate change in the first commitment period equivalent to reducing Annex I anthropogenic emissions by sources covered by Annex A to the Kyoto Protocol by an aggregate proportion of at least 5 per cent with reference to their 1990 levels, in accordance with Article 3.1 of the Kyoto Protocol;

(b) For the purposes of determining compliance of Annex I Parties with their quantitative emission limitation and reduction objectives, any land-use, land-use change and forestry activity must not result in an increase of anthropogenic emissions by sources minus removals by sinks deriving from the application of removals by sinks of carbon dioxide and indirect nitrogen fertilization effects;

(c) In view of the impact of climate change on forests and desertification, forest conservation and rehabilitation of degraded vegetation cover are important climate change adaptation activities, and as such could be included among those activities to benefit from the share of proceeds of the mechanisms of the Protocol intended to meet the cost of adaptation. This is without prejudice to decisions on land-use, land-use change and forestry activities in the mechanisms of the Kyoto Protocol;

(d) The rules for the inclusion of land-use, land-use change and forestry activities in the accounting of Annex I countries, for purposes of compliance with their commitments under the Kyoto Protocol, must not imply a transfer of such commitments to a future commitment period;

(e) Carbon removed by land-use, land-use change and forestry activities shall be considered as a temporary removal. Any Annex I Party that makes use of such removal to

achieve compliance with its Kyoto Protocol commitment shall continue to be responsible for the equivalent emission reduction at the appropriate point in time;

(f) In the methodologies to account for emissions by sources and removals by sinks in the land-use, land-use change and forestry sector, no consideration shall be given to the simple presence of stocks of carbon, in line with the provisions of Article 5.2 of the Kyoto Protocol,

Wishing to design a balanced, scientifically and environmentally-sound system of definitions and accounting, and to establish simple and practical rules and methodologies for the implementation of activities under Article 3.3 and 3.4 of the Kyoto Protocol, which can reduce uncertainty and can be implemented cost-effectively, taking into account the feasibility of designing such a system,

Affirming the need to maintain incentives to reduce emissions from fossil fuel combustion and other sources,

Acknowledging that all Parties must promote sustainable management of forests and other ecosystems, conserve biological diversity, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems,

Recognizing the importance of protecting and enhancing sinks and reservoirs of greenhouse gases in achieving the quantified emission limitation and reduction commitments of the Parties included in Annex I,

Aware of the estimated magnitude and uncertainties related to the residual terrestrial uptake,

Mindful of the potential for sink reversal,

Seeking to avoid double counting of emissions minus removals or carbon stock changes,

Recalling the need for time-series consistency,

Noting potential synergies between the implementation of Article 3.3 and 3.4 and action by Parties to meet the objectives of the Convention on Biological Diversity, the Convention to Combat Desertification, the Convention on Wetlands (Ramsar Convention), and Agenda 21,

Bearing in mind the different national circumstances of each Party regarding the protection and enhancement of sinks and reservoirs,

Noting that policies and measures to deal with climate cha[illegible] should be cost-effective so as to ensure global benefits at the lowest possible cost and should therefore be comprehensive,

cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors,

Noting the necessity to provide appropriate incentives for sustainable forest management through definitions of activities under Article 3.3 and 3.4 as well as their associated accounting rules,

Affirming that the inclusion of broad additional activities under Article 3.4 in the first commitment period must be consistent with the provisions of the Convention and the Kyoto Protocol,

Having considered decision -/CP.6 adopted by the Conference of the Parties at its sixth session,

1. *Adopts* the definitions, modalities, rules and guidelines relating to Article 3.3 and 3.4 of the Kyoto Protocol contained in the annex to the present decision;

2. *Requests* the Subsidiary Body for Scientific and Technological Advice to review, following methodological work of the Intergovernmental Panel on Climate Change on this subject, the definition of a forest as set forth in the annex to the present decision, and the application of a single forest definition for each Party, for the second and subsequent commitment periods, and to explore the use of biome-specific forest definitions, for consideration by the Conference of the Parties at its ninth session.

Annex

DEFINITIONS, MODALITIES, RULES AND GUIDELINES RELATING TO LULUCF ACTIVITIES UNDER THE KYOTO PROTOCOL

1. For land-use, land-use change and forestry activities under Article 3.3 [, 3.4] [, 6] [and 12] of the Kyoto Protocol, the following definitions shall apply:

(a) "Forest" is an area of land of 0.3-1.0 hectares (ha) with tree crown cover (or equivalent stocking level) of more than 10-30 per cent with trees with the potential to reach a minimum height of 2-5 metres (m) at maturity in situ. A forest may consist either of closed forest formations where trees of various storeys and undergrowth cover a high proportion of the ground; or open forest formations over an area of 0.3-1.0 ha with a continuous vegetation cover in which tree crown cover exceeds 10-30 per cent. Young natural stands and all plantations which have yet to reach a crown density of 10-30 per cent or tree height of 2-5 m are included under forest;

(b) "Afforestation" is the direct human-induced conversion of land that has not been forested for a period of at least 50 years to forest land through planting or seeding;

(c) "Reforestation" is the direct human-induced conversion of non-forest land to forest land through planting or seeding, on land that was forested but that has been converted to non-forest land. For the first commitment period, reforestation activities will be limited to reforestation occurring on those lands that did not contain forest on 1 January 1990;

(d) "Deforestation" is the direct human-induced conversion of forest land to non-forest land;

(e) ["Revegetation" is a direct human-induced activity to increase carbon stocks on sites through the establishment of vegetation that covers a minimum area of 0.3 ha and does not meet the definitions of afforestation and reforestation in Article 3.3;

(f) "Forest management" is the stewardship and use of forests in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national and global levels, and that does not cause damage to other ecosystems;

or

"Forest management" includes a combination of individual management activities related to multiple uses and services of forests;

(g) "Cropland management" is the system of practices on land on which agricultural crops are grown and on land that is considered cropland but is not being used for crop production;

(h) "Grazing land management" is the system of practices aimed at manipulating the amount and type of vegetation and livestock produced.]

2. Each Party in Annex I shall, for the purposes of applying the definition of "forest" as contained in paragraph 1 (a) above, select a single minimum tree crown cover value between 10 and 30 per cent, a single minimum land area value between 0.3 and 1 ha and a single minimum tree height value between 2 and 5 m. Upon selection, each Annex I Party's forest definition shall be fixed for the duration of the first commitment period.

3. For the purposes of Article 3.3, eligible activities are those direct human-induced afforestation, reforestation and/or deforestation activities that meet the requirements set forth in this annex and that have taken place on or since 1 January 1990, but before the end of December of the last year of the commitment period.

4. [No additional activities shall be pursued under the provisions of Article 3.4 during the first commitment period [, unless the Conference of the Parties decides that the issues of scale, uncertainty and risk related to the sinks are resolved].]

or *Insert text from paragraph 31.*

5. [The following direct human-induced activities, other than afforestation, reforestation and deforestation, and their associated anthropogenic greenhouse gas emissions by sources and removals by sinks, shall be accounted for under Article 3.4 in the second and subsequent commitment periods: [revegetation], [forest management], [cropland management], and [grazing land management]].

or

[The Conference of the Parties serving as the meeting of the Parties to the Protocol[3] decides to establish, prior to the fixing of quantified objectives for the second commitment period, a list of agreed additional activities for use in the second and subsequent commitment periods, together with the rules, modalities and guidelines for their accounting.]

6. For the purposes of determining the area of deforestation to come into the accounting system under Article 3.3, Parties shall determine the forest cover using the same spatial resolution as is used for the determination of afforestation and reforestation, but not spatial assessment units larger than 1 ha.

7. Accounting of net changes in carbon stocks and net emissions of greenhouse gases other than carbon dioxide (CO_2) resulting from land-use, land-use change and forestry activities under Article 3 shall begin with the onset of the activity or the beginning of the commitment period , whichever comes later.

8. Once land is accounted for under Article 3, all anthropogenic greenhouse gas emissions by sources and removals by sinks resulting from this land must be accounted for over subsequent and contiguous commitment periods.

9. Parties shall account for changes in carbon pools associated with land-use, land-use change and forestry activities under Article 3 which shall include: above-ground biomass, below-ground biomass, litter, dead wood, and soil organic carbon, in accordance with the

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[3] If the option of the COP is chosen, then this paragraph would have to go in the COP 6 decision.

Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories as required by Article 5.2, any future elaboration of these guidelines, or parts of them, and any good practice guidance in accordance with relevant decisions of the Conference of the Parties and/or The Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol on land-use change and forestry.

10. Parties shall account for all carbon pools that are a source of greenhouse gas emissions as a result of land-use, land-use change and forestry activities, but may choose not to account for a given pool in a commitment period if transparent and verifiable proof is provided that the pool in question is not a source.

11. Net non-CO_2 greenhouse gas emissions, resulting from land-use, land-use change and forestry activities under Article 3 shall be accounted for in accordance with the *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories* as required by Article 5.2, any future elaboration of these guidelines, or parts of them, and any good practice guidance on land-use change and forestry in accordance with relevant decisions of the Conference of the Parties and/or The Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol.

12. Net greenhouse gas emissions or removals as a result of elevated atmospheric CO_2 concentrations, nitrogen deposition, natural climate variability, and dynamic effects of age structure in forest ecosystems, shall be accounted for together on each area of land where an eligible activity has taken place.

or *Instead of paragraph 12, paragraphs 13-17 below.*

13. Anthropogenic greenhouse gas emissions by sources and removals by sinks resulting from land-use, land-use change and forestry activities undertaken under Article 3.4 of the Kyoto Protocol can only be used for meeting the commitments of Article 3 of the Kyoto Protocol when accepted statistical tests demonstrate that such activities have a significant, detectable, intentional, direct human-induced effect on net emissions and/or removals.

14. For land-use, land-use change and forestry activities where this cannot be demonstrated statistically, modelling techniques shall be used to factor out the effects of nitrogen deposition and elevated atmospheric CO_2 concentrations based on data and information from:

(a) Control plots used for comparison between land subject to the activity and land not subject to it;

(b) Data from research plots;

(c) Existing forest survey and planting data collected in the last 10 years.

15. Where such models are not used, all net greenhouse gas removals by sinks that enter the accounting systems shall be reduced by [XX per cent] [0.5 tonnes carbon per hectare per year for forest land and 0.1 tonnes carbon per hectare per year for grassland].

16. For forest management activities, models shall be used to factor out the dynamic effects of age structure in forest ecosystems.

17. Parties may choose not to account for net carbon stock changes due to natural climate variation on timescales larger than the commitment period, provided this approach is applied consistently during all commitment periods.

18. Subject to all other provisions in the present annex, for the first commitment period, the adjustment to a Party's assigned amount shall be equal to the net greenhouse gas emissions or removals measured as verifiable net changes in carbon stocks, and net non-CO_2 greenhouse gas emissions during the period 1 January 2008 to 31 December 2012 resulting from human-induced land-use, land-use change and forestry activities under Article 3 since 1 January 1990. Where the result of this calculation is a net sink, this value shall be added to the Party's assigned amount. Where the result of this calculation is a net emission, this value shall be subtracted from the Party's assigned amount.

Option 1.

19. [Subject to all other provisions in the present annex, for the first commitment period, the total of all additions to and subtractions from the assigned amount of Parties included in Annex I to the Convention, resulting from the application of land-use, land-use change and forestry activities under Article 3.4 shall not exceed XX gigagrams of CO_2 equivalent.]

20. [Subject to all other provisions in the present annex, for the first commitment period, [the total of additions to and subtractions from individual Parties' assigned amounts shall only be the net greenhouse gas emissions by sources or removals by sinks resulting from land-use change and forestry activities undertaken [or acquired] by that Party, reduced by XX per cent] [the total of additions to and subtractions from individual Parties' assigned amounts from net greenhouse gas emissions by sources or removals by sinks resulting from land-use change and forestry activities undertaken [or acquired] by that Party shall only be applied over and above the thresholds listed in the appendix[4] to the present annex] [the total of additions to and subtractions from individual Parties' assigned amounts from net greenhouse gas emissions by sources or removals by sinks resulting from land-use change and forestry activities undertaken [or acquired] by that Party shall only be accountable to the maximum of the values listed in the appendix[5] to the present annex].

End of option 1.

Option 2.

21. [Parties electing to include forest management under Article 3.4 of the Kyoto Protocol in the first commitment period shall not include under Article 3.4 the afforestation, reforestation and deforestation activities already included under Article 3.3.

22. [A Party that chooses to include forest management in the first commitment period shall establish an initial interval for purposes of accounting under subparagraphs 24(c) through 24(e) below. The initial interval shall be the lesser of:

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[4] The appendix will be further developed according to the option(s) chosen by Parties.

[5] The appendix will be further developed according to the option(s) chosen by Parties.

(a) [A fixed value to cover five years], and;

(b) [A fixed percentage] of the Party's base year(s) inventory estimates pursuant to Articles 3.7 and 3.8 and prepared in accordance with Article 5.2 of the Kyoto Protocol.

23. A Party that chooses to apply forest management in the first commitment period may establish a threshold for purposes of accounting under subparagraphs 24(c) through 24(f) below. The threshold shall be [Z per cent of] five times the average annual carbon stock change associated with forest management in a period consisting of one or more contiguous calendar years between 1995 and 1999. The Party shall report its threshold estimate, along with the associated carbon stock change estimates for the chosen period, in the Party's pre-commitment period report under Article 7.4.

24. For the first commitment period:

(a) Where the forest management estimate is a net emission, this value shall be subtracted from the Party's assigned amount;

(b) Where the forest management estimate is a net sink that is less than or equal to the initial interval, then the forest management estimate shall be added to the Party's assigned amount;

(c) Where the forest management estimate is greater than the initial interval and less than or equal to the threshold determined according to paragraph 23, the Party's assigned amount shall be increased by the initial interval plus [Y] per cent of the difference between the forest management estimate and the initial interval;

(d) Where the forest management estimate is greater than the threshold and the threshold is greater than the initial interval, the Party's assigned amount shall be increased by the initial interval, plus [Y] per cent of the difference between the threshold determined according to paragraph 23 and the initial interval, plus the difference between the forest management estimate and the threshold;

(e) Where the forest management estimate is greater than the initial interval and the Party has not established a threshold according to paragraph 23, then the Party's assigned amount shall be increased the initial interval plus [Y] per cent of the difference between the forest management estimate and the initial interval;

(f) Where the forest management estimate is a net sink that is greater than the initial interval and the initial interval is greater than or equal to the threshold determined according to paragraph 23, the Party's assigned amount shall be increased by the amount of the forest management estimate.]

End of option 2.

25. [Determination of whether a Party had a net source of emissions from land-use change and forestry in 1990 shall be made using all emissions minus removals reported in category 5 of [the] [a] national greenhouse gas inventory submitted by that Party [in the year of submission of

the pre-commitment period inventory report as under consideration for decisions under Articles 5, 7 and 8] in accordance with the *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories* and Article 5.2.

26. Each Party for whom land-use change and forestry constituted a net source of emissions in 1990 shall report, as part of its national inventory submission due in 200x under Article 7, to be subject to a pre-commitment period review under Article 8:

(a) The methodologies and data used to determine its eligibility to apply the final sentence of Article 3.7 of the Kyoto Protocol, in accordance with paragraph 25 above, and;

(b) The data on land-use change emissions by sources minus removals by sinks in 1990.

27. For the final sentence of Article 3.7 of the Kyoto Protocol, emissions by sources minus removals by sinks covered by the term land-use change are defined as all emissions by sources minus removals by sinks reported in relation to the conversion of forests (deforestation).

28. Where an eligible Party includes net emissions by sources from land-use change in the calculation of its assigned amount, in accordance with the final sentence of Article 3.7 of the Kyoto Protocol, that Party shall ensure accounting consistency with Article 3.3 of the Kyoto Protocol.]

29. Each Party shall report, as part of its national inventory submission due in 200x, the values it has selected for tree crown cover, tree height and the minimum land area as required in paragraph 1 (a) above. In so doing, Parties shall demonstrate that such values are consistent with those that have historically been reported to the Food and Agriculture Organization of the United Nations or other international bodies, and if they differ, explain how such values were developed.

30. Each Party shall report, at the end of the first commitment period in accordance with Article 7 of the Kyoto Protocol, on how harvesting or some other forest disturbance that is followed by the re-establishment of a forest, is distinguished from deforestation, during 2008-2012 by comparison with 1990. This information will be subject to review in accordance with Article 8.

31. [Parties shall report in accordance with Article 7 of the Kyoto Protocol, before the start of the first commitment period, which activities under Article 3.4 it elects to include in its accounting for the first commitment period and document the land base on which these activities apply. Such activities shall be limited to those, or a subset of those, listed in paragraph 5 above. Upon election, a Party's decision is fixed for the first commitment period.]

32. Each Party shall report as part of its annual inventory, any model used to estimate or assess carbon stocks or anthropogenic greenhouse gas emissions by sources or removals by sinks, and make it available in its entirety electronically at the time of submission of its inventory for use by all Parties and for verification and review purposes.

33. The treatment of net changes in carbon stock associated with harvested wood products shall be in accordance with decisions of the Conference of the Parties following consideration by

the Subsidiary Body for Scientific and Technological Advice on this matter *(to commence at SBSTA 14)*.

34. Information on the location of areas of land subject to land-use, land-use change and forestry activities under Article 3.3 and 3.4 shall be provided by Parties in their national inventories.

35. Net changes in carbon stocks and anthropogenic greenhouse gas emissions by sources or removals by sinks, with associated uncertainties, shall be measured, reported, accounted, and reviewed in accordance with the requirements of Articles 5, 7 and 8 of the Kyoto Protocol, and in accordance with the *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories*, any future elaboration of these guidelines, or parts of them, and any good practice guidance on land-use change and forestry in accordance with relevant decisions of the COP and/or COP MOP, and the requirements for supplementary information agreed to by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol under the provisions of Article 7.1 of the Kyoto Protocol.

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II. PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE UNDER THE KYOTO PROTOCOL

(Agenda item 7 (d))

Draft decision .../CP.6[6]

Option 1

Procedures and mechanisms on compliance under the Kyoto Protocol

The Conference of the Parties,

Recalling its decisions 8/CP.4 and 15/CP.5,

Having considered the report of the Co-Chairmen of the Joint Working Group on Compliance on the outcome of the work of the Group, submitted through the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice,

Noting with appreciation the work done by the Joint Working Group on Compliance on the development of procedures and mechanisms on compliance under the Kyoto Protocol,

Recognizing the need to prepare for the early entry into force of the Kyoto Protocol to the United Nations Framework Convention on Climate Change,

Recommends that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol adopt the following decision at its first session:

Decision ../CMP.1

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Having considered decision .../CP.6 adopted by the Conference of the Parties at its sixth session,

Decides to adopt the procedures and mechanisms on compliance under the Kyoto Protocol set out in annex I below.

Option 2

Procedures and mechanisms on compliance under the Kyoto Protocol

The Conference of the Parties,

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[6] This text was given restricted distribution at the first part of the sixth session, under the symbol FCCC/SB/2000/CRP.15/Rev.2.

Recalling its decisions 8/CP.4 and 15/CP.5,

Having considered the report of the Co-Chairmen of the Joint Working Group on Compliance on the outcome of the work of the Group, submitted through the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice,

Noting with appreciation the work done by the Joint Working Group on Compliance on the development of procedures and mechanisms on compliance under the Kyoto Protocol,

Recognizing the need to prepare for the early entry into force of the Kyoto Protocol to the United Nations Framework Convention on Climate Change,

Recommends that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol adopt the following decision at its first session:

Decision ../CMP.1

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Recalling Article 18 of the Kyoto Protocol,

Having considered decision .../CP.6 adopted by the Conference of the Parties at its sixth session,

1. *Decides*

(a) To adopt the procedures and mechanisms on compliance under the Kyoto Protocol set out in annex I below and to bring them into operation;

(b) To adopt, pursuant to Article 18 of the Protocol, the procedures and mechanisms on compliance under the Kyoto Protocol referred to in subparagraph (a) above in the form of an amendment to the Protocol;

[2. *Further decides* that it will provide, in the amendment [under Article 3.9] for establishing commitments for the second commitment period, a requirement that no State or regional economic integration organization may deposit an instrument of acceptance in respect of such amendment unless it has previously deposited, or simultaneously deposits, an instrument of acceptance of the amendment on procedures and mechanisms on compliance referred to in paragraph 1 (b) above.]

Option 3

Procedures and mechanisms on compliance under the Kyoto Protocol

The Conference of the Parties,

Recalling its decisions 8/CP.4 and 15/CP.5,

Having considered the report of the Co-Chairmen of the Joint Working Group on Compliance on the outcome of the work of the Group, submitted through the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice,

Noting with appreciation the work done by the Joint Working Group on Compliance on the development of procedures and mechanisms on compliance under the Kyoto Protocol,

Recognizing the need to prepare for the early entry into force of the Kyoto Protocol to the United Nations Framework Convention on Climate Change,

Alternative 1

1. *Decides* to adopt the "Agreement on procedures and mechanisms on compliance under the Kyoto Protocol" set out in annex I below as an integral part of the Kyoto Protocol;

[2. *Further decides* that it will provide, in the amendment [under Article 3.9] for establishing commitments for the second commitment period, a requirement that no State or regional economic integration organization may deposit an instrument of acceptance in respect of such amendment unless it has previously deposited, or simultaneously deposits, an instrument of acceptance of the agreement on procedures and mechanisms on compliance referred to in paragraph 1 above.]

Alternative 2

1. *Approves* the procedures and mechanisms on compliance set out in annex I below;

2. *Decides* that the procedures and mechanisms on compliance referred to in paragraph 1 above shall be developed into a legally binding instrument to be known as the "Agreement on procedures and mechanisms on compliance under the Kyoto Protocol", which shall become an integral part of the Protocol;

3. *Requests* the Joint Working Group on Compliance, on the basis of the text set out in annex II below, to complete the necessary technical and legal work in time to enable the Conference of the Parties to adopt the agreement referred to in paragraph 2 above at its seventh session;

[4. *Further decides* that it will provide, in the amendment [under Article 3.9] for establishing commitments for the second commitment period, a requirement that no State or regional economic integration organization may deposit an instrument of acceptance in respect of such amendment unless it has previously deposited, or simultaneously deposits, an instrument of acceptance of the agreement on procedures and mechanisms on compliance referred to in paragraph 2 above.]

Annex I

PROCEDURES AND MECHANISMS ON COMPLIANCE UNDER THE KYOTO PROTOCOL

Section I. General provisions

Objective

1. The objective of the procedures and mechanisms on compliance is to facilitate, promote and enforce compliance with the commitments under the Protocol, as specified in the following provisions.

Principles

Option 1

2. The operation of the procedures and mechanisms on compliance shall be guided by the principles set out in Article 3 of the Convention, and shall:

(a) Be proportionate, in that the procedures, mechanisms and consequences should take into account the cause, type, degree and frequency of non-compliance;

(b) Adhere to the principle of common but differentiated responsibilities as defined in the Convention;

(c) Treat all Parties that have undertaken the same commitments in an equal manner;

(d) Be based on principles of efficiency and due process allowing Parties, and in particular the Party concerned, an opportunity for a full, fair and timely consideration and resolution of compliance-related issues;

(e) Provide for reasonable certainty; prevention of non-compliance; importance of domestic compliance and enforcement; creating appropriate incentives to comply; restoration to the environment of excess tonnes; automaticity; and transparency.

Option 2

3. *Provisions on principles may be reflected in a preamble.*

Option 3

4. *No such provision is needed.*

Section II. Establishment and structure

Compliance Committee

5. A Compliance Committee (hereinafter referred to as the "Committee") is hereby established by the Conference of Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP), [pursuant to Article 18[7]].

6. The Committee shall function through [a plenary and] two branches, namely, a facilitative branch and an enforcement branch.

7. The Committee shall consist of [15] [...] members elected by the COP/MOP, [10] [...] of whom to be appointed by the COP/MOP to serve in the facilitative branch and [5] [...] to serve in the enforcement branch [on the basis of

[equitable geographical representation of the five United Nations regional groupings, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau]

Or

[a larger majority of members of Parties included in Annex I].]

8. Each branch shall elect a Chairperson and Vice-Chairperson from amongst its members [, such persons to constitute the bureau].[The chairmanship of each branch shall rotate between Parties included in Annex I and Parties not included in Annex I]. The Chairpersons of the facilitative and enforcement branches shall be the Co-Chairpersons of the Committee.

9. [The COP/MOP shall elect and appoint an equal number of alternate members of the Committee on the same basis as the members of the Committee].

10. Members of the Committee [and their alternates] shall serve in their individual capacity. They shall have recognized competence relating to climate change and in relevant fields such as the scientific, technical, socio-economic or legal fields.

11. The facilitative branch and the enforcement branch shall interact and cooperate in their functioning and, as necessary, on a case-by-case basis, the [plenary][bureau] may designate one or more members of one branch to contribute to the work of the other branch on a non-voting basis.

[Plenary

12. The plenary shall consist of all members of the facilitative and enforcement branches.

13. The functions of the [plenary] [bureau] [Co-Chairpersons] [relevant branch] shall be to:

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[7] All Articles referred to in this text are those of the Kyoto Protocol, unless otherwise specified.

[(a) Undertake the preliminary examination of questions as referred to in paragraphs ...];

[(b) Allocate questions to the appropriate branches as referred to in paragraph ...;]

(c) Report [annually] to the COP/MOP on its work [including a list of decisions taken by the two branches,] in accordance with paragraph 81 below;

(d) Receive guidance from the COP/MOP [on issues of implementation] in accordance with paragraph 83 below;

(e) Submit budgetary proposals to the COP/MOP for approval in order to ensure the effective functioning of the Committee;

(f) Appoint the Chairperson of each branch as Co-Chairpersons of the Committee;

(g) Develop further rules of procedure; and

(h) [Perform such other administrative functions as may be required by the COP/MOP for the effective functioning of the Committee]].

Facilitative branch

Membership

14. The members of the facilitative branch shall be appointed by the COP/MOP on the basis of

[equitable geographical representation of the five United Nations regional groupings, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau]

Or

[[seven members] [one half] nominated by Parties included in Annex I to the Convention and [three members] [one half] nominated by Parties not included in Annex I to the Convention].

15. The COP/MOP shall appoint [five] [...] members for a term of two years and [five] for a term of four years. Every two years thereafter, the COP/MOP shall appoint [five] [...] new members for a term of four years. Outgoing members may be re-appointed for one consecutive term.

16. The membership of the facilitative branch shall reflect in a balanced manner competence in the fields referred to in paragraph 10 above.

Mandate

17. The facilitative branch shall be responsible for providing advice and facilitation to all Parties in implementing the Protocol, and for promoting compliance of [all] Parties [included in

Annex I] with their commitments under the Protocol, as specified in section IV, paragraphs 85 to 90.

18. [Taking into account the differentiated responsibilities of Parties included in Annex I and Parties not included in Annex I, the facilitative branch shall, with regard to Parties not included in Annex I, apply the consequences set out in section IV, paragraph 85 below and, with respect to Parties included in Annex I, the consequences set out in section IV, paragraph 86 below.] [Depending on the particular question and the circumstances pertaining to the question before it, the facilitative branch shall apply one or more consequences set out in section IV, paragraphs 85 to 90 below.]

Enforcement branch

Membership

19. The members of the enforcement branch shall be appointed by the COP/MOP on the basis of

[equitable geographical representation of the five United Nations regional groupings, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau]

Or

[[four] [five] members nominated by Parties included in Annex I to the Convention]

Or

[a larger representation nominated by Parties included in Annex I to the Convention on the basis of equitable geographical representation of the relevant regional groups of such Parties].

20. The COP/MOP shall appoint [two] [...] members for a term of two years and [three] [...] members for a term of four years. Every two years thereafter, the COP/MOP shall alternately appoint [two] [...] or [three] [...] new members, as appropriate, for a term of four years. Outgoing members may be re-appointed for one consecutive term.

21. The [majority of] members of the enforcement branch shall have legal experience.

Mandate

22. The enforcement branch shall be responsible for determining whether:

(a) A Party [included in Annex I] is in non-compliance with its commitments under [Article 3.1] [, Articles 2 and 3];

(b) [A Party [included in Annex I] is in non-compliance with its commitments under Article 3.14];

(c) [A Party [included in Annex I] is in non-compliance with its commitments under Articles 5.1, 5.2 and/or Articles 7.1, [7.2] and 7.3;];

(d) In the event of a disagreement between an expert review team and the Party involved, to apply adjustments to inventories under Article 5.2 [and to resolve issues relating to Article 7.4];

(e) A Party [included in Annex I] [is] [or] [is not] meeting the requirements [of Parties included in Annex I] for participation under Articles 6, [12] and/or 17;

23. The enforcement branch shall also be responsible for applying the consequences set out in, paragraphs 91 to 125 below.

24. [The proceedings of the enforcement branch shall apply to Parties included in Annex I only.] [The coverage of the enforcement branch shall be based on the nature of commitments, not on Party status.]

Option 1

25. A certain degree of flexibility allowed by the Convention and the Protocol to the Parties included in Annex I undergoing the process of transition to a market economy shall be taken into account.

Option 2

26. The facilitative and enforcement branches shall take into account the certain degree of flexibility provided by the COP/MOP, pursuant to Article 3.6 of the Protocol, to the Parties included in Annex I undergoing the process of transition to a market economy.

Option 3

27. *No such provision is needed.*

Section III. Procedures

Submission of questions of implementation

28. The Committee shall receive through the secretariat questions of implementation [indicated in reports of expert review teams under Article 8, or] submitted by:

(a) Any Party with respect to itself; or

(b) Any Party with respect to another Party, supported by corroborating information [, with respect to the facilitative branch].

29. [The Committee shall also receive through the secretariat questions of implementation contained in reports of expert review teams together with the relevant report of the panel set up under paragraph 32].

30. The secretariat shall forthwith make available to the Party concerned any question of implementation submitted under paragraph 28 above.

31. In addition to the reports referred to in paragraph 28 above, the Committee shall also receive all other final reports of the expert review teams. In the case of the first review of eligibility requirements for a Party under Articles 6, [12] and 17, and where no question of implementation has been indicated in the expert review team report, the Committee shall notify the secretariat accordingly.

[Panel relating to reports under Article 8

32. Pursuant to Article 8.3 of the Protocol, the reports of the expert review teams shall be considered by a panel to be established by the COP/MOP.

33. The panel shall consist of six members elected annually by the COP/MOP on the basis of equitable geographical representation of the five United Nations regional groupings, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau. In order to carry out its functions, the panel shall meet as often as may be required during the inter-sessional period of the COP/MOP.

34. The functions of the panel shall be to:

(a) Consider and confirm to the Committee that the reports of the expert review teams are in accordance with the guidelines established by the COP/MOP, and inform the Committee of any discrepancy;

(b) Examine the identification in the reports of potential problems and factors that influence the fulfillment of commitments by the Parties;

(c) Propose to the Committee any additional questions that may arise from the panel's consideration of the reports of the expert review teams; and

(d) Report annually to the COP/MOP on its activities.

35. The panel's report shall be limited to its conclusions on paragraph 34 (a) to (d) above and shall be delivered to the Committee within four weeks of receiving the reports of the expert review team.]

Preliminary procedures

Allocation

36. The [Co-Chairpersons] [bureau] [plenary] shall allocate questions of implementation to the appropriate branch in accordance with the responsibilities of each branch set out in paragraphs 17 and 22 above.

Preliminary examination

37. The [relevant branch] [plenary] shall [in accordance with agreed criteria adopted by the COP/MOP,] undertake a preliminary examination of questions of implementation to ensure that, except in the case of a question raised by a Party concerning itself, the question before it:

(a) Is supported by sufficient information;

(b) Is not *de minimis* or ill-founded, and

(c) Is based on the requirements of the Protocol.

38. The preliminary examination of a question of implementation shall be completed within three weeks.

39. After the preliminary examination of a question of implementation, the Party in respect of which the question is raised (hereinafter referred to as "the Party concerned") shall be notified in writing and, in the event of a decision to proceed, shall be provided with a statement identifying the question of implementation, the information on which the question is based and the branch that will consider the question.

40. In the case of the first review of eligibility requirements for a Party under Articles 6, [12] and 17, [the enforcement branch] shall also notify the secretariat of a decision not to proceed with any question of implementation relating to eligibility requirements under those Articles.

41. The Party concerned shall be given an opportunity to comment on all information relevant to the question of implementation and the decision to proceed.

General Procedures

42. The procedures set out in paragraphs 43 to 52 below shall apply to [the plenary], the facilitative branch and the enforcement branch, except where otherwise provided in the case of the enforcement branch.

Participation of Parties

43. The Party concerned shall be entitled to designate one or more persons to represent it during the consideration of the question of implementation. The Party concerned shall not participate in the elaboration and adoption of a recommendation or decision of the branch.

Sources of information

44. The branch shall base its deliberations on any relevant information provided by:

(a) Reports of the expert review teams under Article 8 of the Protocol;

(b) The Party concerned;

(c) Reports of the Conference of the Parties (COP), the COP/MOP, and the subsidiary bodies; and

(d) The other branch.

45. In addition, competent intergovernmental and non-governmental organizations with relevant factual and technical information may submit such information to the branch.

46. The Committee may seek expert advice.

47. Any information utilized by the branch shall be made available to the Party concerned and, subject to any rules relating to confidentiality, to the public. The branch shall indicate to the Party concerned which of this information it considers relevant. The Party concerned shall be given an opportunity to comment in writing on such information.

Recommendations and decisions

48. The adoption of recommendations and decisions shall require a quorum of at least ... of the members to be present.

49. The members of [the Committee and of] the branches shall make every effort to reach agreement on any recommendations or decisions by consensus. If all efforts at reaching consensus have been exhausted, the recommendations or decisions shall as a last resort be adopted by a majority of at least [three quarters] of the members of [the Committee or] the branch present and voting.

50. The branch shall forthwith notify the Party concerned in writing of its recommendation or decision, with conclusions and reasons therefor, which shall be made available to other Parties and to the public.

51. The Party concerned shall be given an opportunity to comment on any recommendation or decision of the branch.

Translation

52. Any question of implementation submitted under paragraph 28, any notification under paragraph 39 above, information under paragraph 44 and any recommendation or decision of the relevant branch, including the information on which it is based, shall be translated into one of the United Nations official languages, if the Party concerned so requests.

Rules of procedure

53. Further rules of procedure, including rules on confidentiality, conflict of interest, submission of information by intergovernmental and non-governmental organizations, and translation, may be developed for adoption by [the Committee] [the COP/MOP] by consensus.

Procedures pertaining to the enforcement branch

Written submission

54. Within 10 weeks after the receipt of the notification under paragraph 39 above, the Party concerned may make a written submission to the enforcement branch, including rebuttal of information submitted to the branch.

Hearing

55. If so requested in writing by the Party concerned within 10 weeks of the receipt of notification, the enforcement branch shall hold a hearing at which the Party concerned shall have

the opportunity to present its views. The hearing shall take place within four weeks after receipt of the request or of the written submission under paragraph 54 above, whichever is the later. The Party concerned may present expert testimony or opinion at the hearing. Such a hearing shall be held in public unless the branch decides that part or all of the hearing shall take place in private.

56. The enforcement branch may put questions to and seek clarification from the Party concerned, either in the course of such a hearing or at any time in writing, and the Party concerned shall provide a response within six weeks thereafter.

Reference to the facilitative branch

57. Where appropriate, the enforcement branch may, at any time, refer a question of implementation to the facilitative branch for consideration.

Preliminary finding

58. Within four weeks from receipt of the written submission of the Party concerned under paragraph 54, above or within four weeks from the date of any hearing pursuant to paragraph 55 above, or within 14 weeks from the notification under paragraph 39 above if the Party has not provided a written submission, whichever is the latest, the enforcement branch shall:

(a) Make and issue a preliminary finding that the Party concerned is in non-compliance under the articles referred to paragraph 22 above; or

(b) Otherwise determine not to proceed further with the question.

59. The preliminary finding, or the decision not to proceed, shall include conclusions and reasons therefor.

60. The enforcement branch shall forthwith notify the Party concerned in writing of its preliminary finding or decision not to proceed. The decision not to proceed shall be made available to the other Parties and to the public.

Final decision

61. Within 10 weeks from the receipt of the notification of the preliminary finding, the Party concerned may provide a further written submission. If that Party does not do so within that period of time, the enforcement branch shall issue a final decision confirming its preliminary finding.

62. If the Party concerned provides a further written submission, the enforcement branch shall, within four weeks from the date it received the further submission, consider it and make a final decision, indicating whether the preliminary finding is confirmed and, if so, which part.

63. The final decision shall include conclusions and reasons therefor.

64. The enforcement branch shall forthwith notify the Party concerned in writing of its final decision, which shall be made available to the other Parties [, in all United Nations official languages,] and to the public.

65. The enforcement branch, when the circumstances of an individual case so warrant, may extend any time frames provided for in paragraphs 54 to 64 above.

Expedited procedures

66. Where a question of implementation relates to the eligibility requirements of Parties included in Annex I under Article 6, [12] or 17, [,including adjustments related to the observance of eligibility requirements], paragraphs 36 to 65 shall apply, except that:

(a) [The preliminary examination referred to in paragraph 37 shall be conducted within [one] [two] week[s]];

(b) [The Party concerned may make a written submission within four weeks of notification under paragraph 39 above];

(c) [If so requested in writing by the Party concerned within two weeks of the notification under paragraph 39 above, the enforcement branch shall hold a hearing referred to in paragraph 55 above. The hearing shall take place within two weeks after receipt of the request or of the written submission under subparagraph (b) above, whichever is later.]

(d) The enforcement branch shall issue its preliminary finding or decision not to proceed within six weeks from the notification under paragraph 39 above [or within two weeks of a hearing under paragraph 55 above, whichever is the shorter];

(e) The Party concerned may make a written submission within four weeks after receipt of the notification referred to in paragraph 60 above;

(f) The enforcement branch shall issue its final decision within two weeks after receiving any submission referred to in paragraph 61 above;

(g) [The timings referred to in paragraphs 54 to 56 shall apply only to the extent that they do not interfere with the taking of decisions in accordance with sub-paragraphs (d) and (f) above.].

67. Where a Party's eligibility has been suspended under Article 6, [12] or 17, and if the Party concerned requests the enforcement branch to reinstate its eligibility, the enforcement branch shall decide on such requests as soon as possible.

68. In the event of a disagreement whether to apply an adjustment to inventories [related to observance of eligibility requirements], the enforcement branch shall decide the matter within [twelve] weeks of being informed in writing of such a disagreement. In doing so, the enforcement branch may consult experts to obtain their opinion.

Adoption of decisions

69. The adoption of decisions of the enforcement branch shall require a quorum of at least ... of the members.

70. The members of the enforcement branch shall make every effort to reach agreement on decisions by consensus. If all efforts at reaching consensus have been exhausted, the decisions shall as a last resort be adopted by a majority of at least [three quarters] of the members of the branch present and voting.

Appeal

Option 1

71. The Party in respect of which a final decision has been taken may appeal to the COP/MOP against a decision of the enforcement branch involving consequences relating to its non-compliance with [Article 3.1] [Articles 2 and 3].

72. The COP/MOP may agree by [a majority of at least ... of the members] [consensus] to override a decision of the enforcement branch. The Party appealing may not participate in the determination of the COP/MOP concerning itself.

73. The decision of the enforcement branch shall stand pending the decision on appeal.

74. The working procedure for appeals shall be developed by the COP/MOP.

Option 2

75. The Party in respect of which a final decision has been taken may appeal to the COP/MOP against a decision of the enforcement branch related to Article 3.1 if that Party believes it has been denied due process through a violation of the rules and procedures of the Committee.

76. The appeal shall be lodged with the [Bureau] [Secretariat] of the COP/MOP within 45 days after the Party has been informed of the decision of the enforcement branch. The COP/MOP shall consider the appeal at its first session after the lodging of the appeal.

77. The COP/MOP may agree by [a majority of at least three-quarters of the members] [consensus] to override the decision of the enforcement branch, in which event the COP/MOP shall refer the matter of the appeal back to the enforcement branch.

78. The decision of the enforcement branch shall be final if after 45 days no appeal has been made against the decision.

Option 3

79. An appeal against a final decision of the enforcement branch relating to Article 3.1 shall be allowed, and to be made to an appellate body comprising of three persons with relevant expertise.

Option 4

80. *There should no provision allowing* appeals.

COP/MOP

81. The Committee shall report on all its activities to each session of the COP/MOP.

82. [The COP/MOP shall [receive] [consider] [review] [and adopt] the reports of the Committee on the progress of its work, [take decisions, [on administrative and budgetary matters,] as appropriate] and [may] [shall] provide general policy guidance, including on any issues regarding implementation that may have implications for the work of the subsidiary bodies.]

83. [The COP/MOP shall provide general policy guidance to the Committee].

Additional period for fulfilling commitments

84. For the purpose of fulfilling its commitment under Article 3.1 a Party may, until [one] [...] month[s] after the date set by the COP/MOP for the completion of the expert review process for the last year of the commitment period:

(a) Continue to acquire [and transfer] [emission reduction units (ERUs)], [certified emission reductions (CERs)] and parts of assigned amounts (PAAs)[8] under Articles 6, [12] and 17 from the preceding commitment period, provided it has not been found ineligible to participate in the relevant mechanism under these Articles; or

[(b) Make a voluntary payment into a climate change fund or funds, the modalities of which shall be decided by [COP 7]].

Section IV. Consequences

Facilitative branch

Option 1

85. The facilitative branch shall, with regard to Parties not included in Annex I, depending upon the particular question before it, decide upon one or more of the following consequences:

(a) Provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building, taking into account the provisions of Articles 4.3, 4.4, 4.5 and 4.7 of the Convention and the relevant decisions of the COP.

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[8] The exact term to be used has yet to be determined.

86. The facilitative branch shall, with regard to Parties included in Annex I, depending on the particular question before it and taking into account the cause, type, degree and frequency of the non-compliance, decide upon one or more of the following consequences:

(a) Provision of advice and assistance to individual Parties regarding the implementation of the Protocol;

(b) Formulation of recommendations to the Party concerned;

(c) Publication of non-compliance or potential non-compliance;

(d) Issuing of cautions; and

(e) Initiation by the facilitative branch of the enforcement procedure set out in section III above.

Option 2

87. The facilitative branch shall, depending upon the particular question before it, decide upon one or more of the following consequences:

(a) Provision of advice and facilitation of assistance to individual Parties regarding the implementation of the Protocol;

(b) Facilitation of financial and technical assistance, including technology transfer and capacity-building;

(c) [Formulation of recommendations];

(d) Publication of non-compliance [or potential non-compliance]; and

(e) [Issuing of cautions].

Option 3

88. The facilitative branch shall, depending on the particular question and the circumstances of the question before it, decide upon one or more consequences in accordance with its mandate as described in paragraph 17, which may include:

(a) Provision of advice to the Party concerned regarding its implementation of the Protocol;

(b) Provision of advice to the Party concerned on the compilation and communication of information;

(c) Provision, as appropriate, of advice and recommendations to the Party concerned on possible modalities for the procurement of technical and financial resources to overcome its difficulties encountered in implementation of the Protocol;

(d) Provision of guidance to the Party concerned in establishing, where appropriate, relevant contacts;

(e) Formulation of recommendations regarding co-operation between the Party concerned and other Parties to promote its compliance with the Protocol;

(f) Formulation of recommendations on actions to be taken by the Party concerned for its implementation of the Protocol;

(g) Formal statement of concern regarding potential non compliance;

(h) Issuing of cautions; and

(i) Declaration of non-compliance.

Option 4

89. The facilitative branch may, as appropriate:

(a) Recommend an indicative list of organizations with expertise that may assist a Party in its implementation of the Protocol;

(b) Arrange for individuals from the roster of experts to advise on and participate in measures to assist a Party in the implementation of its commitments and/or to help it return to compliance;

(c) Mediate in a Party's efforts to approach relevant international organizations for assistance, including financial assistance; and

(d) Facilitate and mediate a Party's easier access to and acquisition of technology appropriate to the implementation of its commitments.

Option 5

90. The facilitative branch [shall][may as appropriate],[depending on the particular question before it][and taking into account the cause, type, degree and frequency of the non-compliance][and the circumstances of the question before it] [decide upon one or more][of the following] [consequences][*inter alia*][in accordance with its mandate as described in paragraph 17, which may include:] [Consequences in paragraphs 92 to 125 shall apply only to Parties included in Annex I].

(a) Provision of advice [and assistance] to [individual Parties] [the Party concerned] regarding [the] [its] implementation of the Protocol;

(b) [Facilitation of financial and technical assistance, including technology transfer and capacity building,[taking into account the provisions of Article 4.3, 4.4, 4.5 and 4.7 of the Convention and the relevant decisions of the COP;][Provision, as appropriate, of advice and recommendations to the Party concerned on possible modalities for the procurement of technical and financial resources to overcome its difficulties encountered in implementation of the Protocol];

(a) [Mediation in a Party's efforts to approach relevant international organizations for assistance, including financial assistance.];

(b) [Facilitation and mediate a Party's easier access to an acquisition of technology appropriate to the implementation of its commitments.];

(c) [Provision of advice to the Party concerned on the compilation and communication of information];

(d) [Provision of guidance to the Party concerned in establishing, where appropriate, relevant contacts];

(e) [Arrangement for individuals from the roster of experts to advise on and participate in measures to assist a Party in the implementation of its commitments and/or to help it return to compliance];

(f) [Recommendation of an indicative list of organizations with expertise that may assist a party in its implementation of the Protocol];

(g) [Recommendations [on actions to be taken by][to] [the Party concerned]][for its implementation of the Protocol];

(h) [Recommendations regarding co-operation between the Party concerned and other Parties to promote its compliance with the Protocol.];

(i) [Issuing of cautions];

(j) [Publication of non-compliance [or potential non-compliance]];

(k) [Declaration of non-compliance];

(l) [Formal statement of concern regarding potential non-compliance];

(m) [Initiation by the facilitative branch of the enforcement procedure set out in section III above].

Enforcement branch

91. [The consequences set out in paragraphs 92 to 125 below shall apply only to Parties included in Annex 1.] [The coverage of the enforcement branch shall be based on the nature of commitments, not on Party status.]

92. [Where appropriate, the enforcement branch [may refer the application of an appropriate consequence to the facilitative branch,] [or may itself apply one or more of the consequences set out in paragraphs 85 to 90 above].]

Articles 5 and 7

Option 1

93. Where the enforcement branch has determined that [a Party is not in compliance with Article 5 or 7.1[,7.2], and [7.3,] [the inventory of a Party has been adjusted by [... per cent]], it [may] [shall] apply one or more of the following consequences, taking into account the cause, type, degree and frequency of that Party's non-compliance:

(a) [Declaration of non-compliance;]

(b) The Party not in compliance shall, within three months of the determination of the enforcement branch, develop and commit itself to an "Articles 5 and 7 plan" to be approved by the enforcement branch, which shall include, *inter alia*:

(i) An analysis of the causes of the Party's non-compliance;

(ii) Measures that the Party intends to implement in order to remedy the non-compliance;

(iii) A timetable for implementing such measures within a time-frame not exceeding [x] months, including clear benchmarks for measuring regular progress in their implementation;

The Party shall submit to the enforcement branch progress reports on the implementation of the Articles 5 and 7 plan on a [quarterly] [regular] basis. On the basis of the progress report, the enforcement branch may decide on further measures, as appropriate;

(c) Suspension of rights and privileges of the Party concerned under terms to be specified by the enforcement branch.

Option 2

94. Where the enforcement branch has determined that an Annex I Party is not in compliance with Articles 5 or 7.1, 7.2 and 7.3, it shall suspend the eligibility of that Party to participate under Article 6, [12] or 17 until the enforcement branch has decided to reinstate such Party's eligibility.

95. In addition the Party concerned shall, within three months of the determination of the enforcement branch, develop and commit itself to an "Articles 5 and 7 plan", to be approved by the enforcement branch, which shall include, *inter alia*:

(a) An analysis of the causes of the Party's non-compliance;

(b) Measures that the Party intends to implement in order to remedy the non-compliance;

(c) A timetable for implementing such measures within a time-frame not exceeding 12 months, including clear benchmarks for measuring regular progress in their implementation.

The Party concerned shall submit to the enforcement branch progress reports on the implementation of Articles 5 and 7 plan on a quarterly basis. On the basis of the progress report, the enforcement branch may decide to reinstate such a Party's eligibility.

96. The enforcement branch shall also apply one or more of the following consequences, taking into account the cause, type, degree and frequency of that Party's non-compliance:

(a) Declaration of non-compliance;

(b) Suspension of rights and privileges of the Party concerned under terms to be specified by the enforcement branch.

[Articles 5.2, 7.1 and 7.4

97. Where the enforcement branch has determined that a Party does not meet a requirement under Articles 5.2, and 7.1 and 7.4 in relation to the issuance and cancellation of assigned amounts [under Article 3.3 and 3.4], the Party shall not issue such assigned amounts until the enforcement branch has determined otherwise and has determined the relevant change to that Party's assigned amounts.]

Articles 6, [12] and 17

98. Where the enforcement branch has determined that a Party does not meet an eligibility requirement under Article 6, [12] or 17, it shall suspend that Party's eligibility [and the eligibility of other Parties operating under an Article 4 agreement] for the mechanism in question, in accordance with the provisions under that Article, until the enforcement branch has decided to reinstate such Party's eligibility.

Article 3.1

Option 1

99. Where the enforcement branch has determined that a Party, following the period referred to in paragraph 84, is not in compliance with commitments under Article 3.1, it shall [apply] [request the Party to choose] [one or more of] the following consequences [, or combination thereof,] [taking into account the cause, type, degree and frequency of that Party's non-compliance]:

(a) [Recommendation by the enforcement branch to the Party not in compliance of policies and measures for implementation [taking into account Articles 2.3 and 3.14]];

(b) [Publication of the Party's non-compliance];

(c) [Deduction of [1.3][1.x][x] times the [number of] excess emissions from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred];

(d) [Acquisition of units of assigned amount originating in the commitment period under consideration [at a rate of 1.1] or originating in the subsequent commitment period [at a rate of 1.3], or a combination thereof, provided that in each case the proportion of parts that exceed the amount needed to meet the Party's commitment under Article 3.1 shall be transferred to the relevant fund to be established under the clean development mechanism (CDM) for its use for adaptation purposes];

(e) [Payment by the Party concerned into a compliance fund, in accordance with paragraphs 102 to 105 below];

(f) [Development of a compliance action plan, in accordance with paragraphs... below] [taking into account Articles 2.3 and 3.14]; and

(g) [Restriction on transferring [and acquiring] units of assigned amount under Articles [3], [4], [6], [12] and [17] [above a level and for a period of time to be determined by the enforcement branch] [until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period]].

100. [In addition, the enforcement branch may apply one or more of the following consequences, taking into account the cause, type, degree and frequency of such non-compliance]:

(a) [Restriction on transferring [and acquiring] units of assigned amount under Articles [3], [4], [6], [12] and [17] [above a level and for a period of time to be determined by the enforcement branch] [until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period]];

(b) [Financial penalty];

(c) [Suspension of rights and privileges]; and

(d) [[Development of a compliance action plan, in accordance with paragraphs... below] [taking into account Articles 2.3 and 3.14]].

101. [In a case of non-compliance in a second successive commitment period, or where the enforcement branch applies another consequence in accordance with paragraph 105 or 112, it may multiply the rate applied in consequence of paragraph 102 or 107 by up to a factor of between 1.5 and 2.]

[Compliance fund

102. The Party not in compliance [shall] [may] make payments at a rate to be determined by the enforcement branch that shall be no less than [1.5 times] and no more than twice the average market price for parts of assigned amounts over the commitments period in question or during

the last six months of the additional period referred to in paragraph 84, whichever is the higher, per excess tonne into a compliance fund to be established by the Party.

103. Each such compliance fund shall be administered by an appropriate body nominated by the Party not in compliance, the details of which shall be notified by the Party to the enforcement branch.

104. The body administering the compliance fund shall use the income and any interest earned:

(a) To acquire parts of assigned amounts originating in the commitment period in which the non-compliance occurred, or, if no such parts of assigned amounts are available, at a reasonable price that shall not be higher than the rate of payment per excess tonne into the fund;

(b) To reduce anthropogenic emissions of greenhouse gases [or enhance anthropogenic removals by sinks] on one or more domestic and/or international projects. Such projects shall, within [three] months of the date of the determination of non-compliance by the enforcement branch, be submitted by the Party to the [enforcement branch] [appropriate body under paragraph 103 above] for its approval which shall take into account the short-and medium-term environmental benefits as well as their cost-effectiveness.

(c) The parts of assigned amount acquired by the compliance fund or the excess emissions restored by such projects shall not be double-counted towards the Party's compliance with its quantified emission limitation reduction commitments during the commitment period in which the compliance fund is in operation.

105. The Party shall submit to the enforcement branch a progress report on the operation and the results of the fund annually, no later than 15 April, as well as audited accounts. On the basis of that report and the accounts, the enforcement branch may decide upon one or more of the consequences set out in paragraphs 85 to 90 above, and/or apply another consequence set out paragraphs 99 and 100 above.]

Compliance action plan

106. [[The Party not in compliance shall restore [1.x times] the excess emissions.]

107. [The Party not in compliance shall, within [3] months after the determination of non-compliance,[or such other period that the enforcement branch considers appropriate,] develop [in cooperation with the enforcement branch, as appropriate,] and submit to the enforcement branch [for its [approval] [advice]] a compliance action plan setting out how it proposes to restore [an amount of tonnes at a rate determined by the enforcement branch that shall be no less than [1.5 times] and no more than [[twice] [1.x][x] times]] the excess emissions, which [shall] [may] include:

(a) An analysis of the causes of the Party's non-compliance;

(b) [[Domestic policies and measures] [one or more means, including for example [domestic measures (such as non-allocation of tonnes under a domestic cap-and-trading system);] [use of Articles 6, [12] and/or 17;] [use of a voluntary compliance fund in accordance with

paragraph X;]] by which it proposes to restore [[1.x][x] times] the excess emissions, and an analysis of their expected impact on the Party's greenhouse gas emissions];

(c) [A declaration not to make transfers under Article 3.11, [for the duration of the implementation of the compliance action plan][until the Party has demonstrated to the enforcement branch that it will have a surplus of assigned amount in the subsequent commitment period]];

(d) [Detailed information on the economic dimension of the implementation of any action under subparagraph (b) above];

(e) [A timetable for implementing the action under subparagraph (b) within a time-frame not exceeding [three] years, or such other period that the enforcement branch considers appropriate and which shall enable measuring annual progress in the implementation];

(f) [An assessment of the compatibility of the compliance action plan with the strategy developed by the Party [and, in the case of a Party in an Article 4 agreement, developed by the Parties under that agreement] to comply with its obligations during the commitment period in which the compliance action plan is implemented];

(g) [An assessment of whether or not the compliance action plan complies with Articles 2.3 and 3.14].

108. [Units of assigned amount originating in the first commitment period shall be applied toward restoring excess emissions at a rate of [...]].

109. [The enforcement branch shall [review] [advise on] the compliance action plan to ensure that it is [complete and] [reasonably] calculated to restore [an amount of tonnes at a rate determined by the enforcement branch that shall be no less 1.5 times and no more than twice] [[1.x][x] times] the excess emissions [and, if so, approve it]].

110. [The excess emissions restored under the compliance action plan may not be double-counted toward the Party's compliance with its quantified emission limitation or reduction commitment during the commitment period in which the compliance action plan is implemented.] [To that end, the Party shall transfer to a cancellation account the equivalent of the emissions in question.]

111. The Party concerned shall submit a progress report on the implementation of the compliance action plan to the enforcement branch annually no later than [...]].

112. [On the basis of that progress report, the enforcement branch [may decide upon one or more of the consequences related to facilitation set out in paragraphs 85 to 90 above. Where it determines that the Party has failed to implement part or all of the compliance action plan as approved and has therefore not restored the emissions in questions, it shall apply to that end one or more of the other consequences set out in paragraphs 99 and 100.] [shall determine whether the requisite emissions have been restored]. In the case where the enforcement branch determines [within a specific time-frame], that some or all of the requisite emissions have not been restored, it shall deduct the remaining emissions from the Party's assigned amount for the

commitment period following the period in respect of which the non-compliance with Article 3.1 occurred.]]

Option 2

113. Where the enforcement branch has determined that a Party, following the additional period or time referred to in paragraph 84 above, is not in compliance with Article 3.1, the enforcement branch shall apply the following consequences:

(a) The Party shall forthwith acquire and retire in the account in their national registry for the commitment period under consideration units of assigned amount originating in this period at a rate of 1.1, or units originating in subsequent period at a rate of 1.3, or a combination thereof, provided that in each case the proportion of units that exceed the amount needed to meet the Party's commitment under 3.1 shall be transferred to the registry established under the CDM for adaptation purposes.

(b) The Party shall be restricted from transferring any units of assigned amount under Article 17 until the Party has demonstrated to the enforcement branch that it is in compliance.

Option 3

114. Where the enforcement branch has determined that a Party, following the additional period referred to in paragraph 84, is not in compliance with Article 3.1, it shall apply each of the consequences set out in the following subparagraphs (a) to (c) together to that Party:

(a) A contribution to the compliance fund established under paragraph ... of an amount in US dollars equal to the greater of:

(i) 60 percent of the market value in US dollars of one carbon tonne at the end of the additional period multiplied by the total number of carbon tonnes by which the Party has exceeded its assigned amount; or

(ii) US dollars [...] for each carbon tonne by which the Party has exceeded its assigned amount.

(b) The deduction from its assigned amount as defined in Article 3.7 in the subsequent commitment period of (x) tonnes multiplied by (1.y), where x equals the number of tonnes by which the Party exceeded its assigned amount at the end of the relevant commitment period, and where y represents the magnification of climatic effects caused by such Party's [projected/actual/anticipated] delay in meeting its commitments, and shall be determined by the COP/MOP working through SBSTA; and

(c) The development and submission to the enforcement branch for its approval of a compliance action plan for the subsequent commitment period in order to bring the Party into compliance by the end of such subsequent commitment period. The compliance action plan shall:

(i) Provide an analysis of the causes of the Party's non-compliance;

(ii) Elaborate the means by which the Party shall achieve its reduced assigned amount through domestic reduction efforts;

(iii) Provide an assessment of the compatibility of the compliance action plan with any strategy previously developed by the Party to comply with its obligations during the commitment period in which the compliance action plan will be implemented, including an assessment of whether or not the compliance action plan complies with Articles 2.3 and 3.14;

(iv) Provide a time-frame for implementing the action required;

(v) Establish benchmarks by which progress may be measured;

(vi) Establish a time-frame for reporting progress to the enforcement branch at regular intervals; and

(vii) Contain restrictions on transfers under Articles 3, 4, 6, 7, [12] and 17, including acquisitions under Article 17, until the Party has demonstrated through its progress reports, to the satisfaction of the enforcement branch, that it will have a surplus of assigned amount in the subsequent commitment period.

115. Where the enforcement branch has determined that a Party, following the period referred to in paragraph 84 above, is not in compliance with Article 3.1, it may in addition to those referred to in paragraph 114 also apply the following consequences:

(a) Recommendation by the enforcement branch to the Party not in compliance of policies and measures for implementation, taking into account Articles 2.3 and 3.14;

(b) Publication of the Party's non-compliance;

(c) Suspension of rights and privileges; and

(d) Suspension of rights and privileges of the Party concerned under terms to be specified by the enforcement branch.

116. The compliance fund referred to in paragraph 114 (a) above is hereby established.

(a) Parties included in Annex I that have exceeded their assigned amounts calculated pursuant to their quantified emission limitation and reduction commitments shall make payments into a compliance fund as determined under paragraph .. above.

(b) The amount payable to the compliance fund shall increase by [y] [0.5]% for each month between the end of the period for fulfilling commitments referred to in paragraph … and the date when the Party tenders full payment to the compliance fund.

(c) The operational modalities, rules and guidelines for the use of the financial resources as well as the administrative arrangements of the compliance fund shall be decided by the COP/MOP.

(d) The financial resources of the compliance fund shall be utilized to finance mitigation projects in developing countries that reduce anthropogenic emissions of greenhouse gases on the basis of a list of projects approved by the COP/MOP, which shall ensure that the reductions required by the fund represent true and additional greenhouse gas reductions that offset excess emissions and achieve the goal of preventing dangerous anthropogenic interference with the climate system. At least 10 per cent of the financial resources shall be used to assist developing country Parties.

(e) The modalities, rules and guidelines of the compliance fund shall be reviewed by the COP/MOP within 3 years after it becomes operational, and periodically thereafter.

(f) Projects undertaken through the compliance fund shall not yield tradable, saleable or creditable CERs or parts of assigned amount to either the Party making the payment into such Fund or to the project's host country.

[Articles 2 and 3

117. Where the enforcement branch has determined that a Party does not meet any eligibility requirement under Articles 2 and 3, it shall:

(a) Declare the non-compliance of the Party concerned;

(b) Suspend that Party's eligibility under Articles 6, [12] and 17 until the enforcement branch has determined to reinstate such Party's eligibility.]; and

(c) Suspend the rights and privileges of the Party concerned.]

[Article 3.14

Option 1

118. Where the enforcement branch has determined that a Party is not in compliance with Article 3.14, it shall apply the following consequences:

(a) Declaration of non-compliance;

(b) The Party not in compliance shall, within 3 months of the determination of the enforcement branch, develop and commit itself to an "Article 3.14 plan" approved by the enforcement branch, which shall include *inter alia*:

(i) An analysis of the reasons for the Party's non compliance;

(ii) Measures that the Party intends to implement in order to remedy the non-compliance; and

(iii) A timetable for implementing the measures within a time-frame, including benchmarks for measuring regular progress in the implementation.

The Party not in compliance shall submit a progress report on the implementation of the Article 3.14 Plan to the enforcement branch on a quarterly basis.

119. On the basis of the progress report, the enforcement branch may also, taking into account the cause, type, degree and frequency of that Party's non-compliance, suspend rights and privileges of the Party under the Convention.

Option 2

120. Where the enforcement branch has determined that a Party is not in compliance with Article 3.14, it shall apply the following consequences:

(a) Declaration of non-compliance;

(b) The Party not in compliance shall, within three months of the determination of the enforcement branch, develop and commit itself to an "Article 3.14 plan" approved by the enforcement branch, which shall include *inter alia*:

(i) An analysis of the reasons for the Party's non-compliance;

(ii) Measures that the Party intends to implement in order to remedy the non-compliance; and

(iii) A timetable for implementing the measures within a time-frame not to exceed 15 months, including milestones for measuring regular progress in the implementation.

The Party not in compliance shall submit a progress report on the implementation of the Article 3.14 plan to the enforcement branch on a quarterly basis. On the basis of the progress report, the enforcement branch may decide on further recommendations, measures or consequences, as appropriate, from the following list, taking into account the cause, type, degree and frequency of non-compliance;

(c) Loss of eligibility for the mechanisms; and

(d)` Financial penalty.

Option 3

There is no need for such provisions.]

[Application of Article 4.5 and 4.6

121. If at the end of the commitment period one or more Parties operating under an agreement under Article 4 are found to be in non-compliance with Articles 5 and 7, each Party to an agreement under Article 4 shall be responsible for its own level of emissions set out in the agreement.

122. In accordance with Article 4.6, any non-compliance consequences under this paragraph shall apply to both the regional economic integration organization and any Party that has exceeded its level of emissions as notified in accordance with Article 4.

123. Where Article 4.5 applies, the Parties operating under such an agreement shall not be able to operate under an Article 4 agreement with respect to the commitment period following the period for which the non-compliance with Article 3.1 occurred, and Annex B commitments shall apply.

124. Where Article 4.5 applies, any Party operating under that Article 4 agreement other than the Party not in compliance shall be able to carry over the surplus emissions under Article 3.13 only to the extent that the difference between its emissions and its assigned amount under Article 3 is greater than the amount by which the Parties not in compliance under Article 4 have exceeded their respective levels of emissions.

125. Where Article 4.5 applies, a Party operating under that agreement shall not be entitled to add parts of assigned amount originating in any other Party, whether gained under the agreement itself, under any other agreement or under Articles 3.3, 3.4, 6, [12] or 17, in meeting its own level of emissions set out in the agreement.]

Section V. Other provisions

Relationship with Article 16

126. [The multilateral consultative process under Article 16 shall provide advice and facilitate assistance [to Parties not included in Annex I] with respect to issues relating to their compliance with the Protocol.] [The facilitative branch shall constitute the multilateral consultative process referred to in Article 16 of the Protocol.] [The procedures and mechanisms on compliance shall operate without prejudice to any multilateral consultative process applied under Article 16.]

Relationship with Article 19

127. The procedures and mechanisms on compliance shall operate without prejudice to Article 19.

[Annex II

Final Clauses[9]

1. This Agreement shall form an integral part of the Kyoto Protocol.

2. This Agreement shall remain open for signature at United Nations Headquarters in New York from...to ...by States and regional economic integration organizations that are Parties to the Convention for 12 months from the date of its adoption.

3. [After the adoption of this Agreement, any instrument of ratification, acceptance, approval or accession to the Kyoto Protocol deposited shall also represent consent to be bound by this Agreement.]

4. No State or regional economic integration organization may establish its consent to be bound by this Agreement unless it has previously established or establishes at the same time its consent to be bound by the Kyoto Protocol.

5. A State or regional economic integration organization may express its consent to be bound by this Agreement by:

(a) Signature not subject to ratification, acceptance or approval, or the procedure set out in paragraph 7 of this Agreement;

(b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance, or approval;

(c) Signature subject to the procedure set out in paragraph 7 below; or

(d) Accession.

6. Instruments of ratification, acceptance, approval, or accession shall be deposited with the Secretary-General of the United Nations.

7. A State or regional economic integration organization which has deposited before the date of the adoption of this Agreement an instrument of ratification, acceptance, approval or accession to the Kyoto Protocol and which has signed this Agreement in accordance with paragraph 5(c) shall be considered to have established its consent to be bound by this Agreement 12 months after the date of its adoption, unless that State or regional economic integration organization notifies the depositary in writing before that date that it is not availing itself of the simplified procedure set out in this paragraph.

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[9] To appear as section VI of the text set out in annex I above.

8. In the event of such notification, consent to be bound by this Agreement shall be established in accordance with paragraph 5(b) above.

9. Any amendment to this Agreement is subject to Article 20 of the Kyoto Protocol [, save that any amendment to paragraphs...shall be subject to Article 21 of the Protocol].

10. This Agreement shall enter into force [at the same time as the Kyoto Protocol] [...].

11. The Secretary-General of the United Nations shall be the depository of this Agreement.

12. The original of this Agreement, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Agreement.

DONE AT [ ] this [ ] day of [ ][ ].]

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III. "BEST PRACTICES" IN POLICIES AND MEASURES
(Agenda item 7 (e))

Draft decision -/CP.6[10]

"Good practices" in policies and measures among Parties included in Annex I to the Convention[11]

The Conference of the Parties,

Recalling the relevant provisions of the United Nations Framework Convention on Climate Change, in particular in Articles 4 and 7.2(b), and of the Kyoto Protocol, in particular in Articles 2, 3 and 7,

Recalling also its decision 8/CP.4 whereby it requested the Subsidiary Body for Scientific and Technological Advice to undertake preparatory work to enable the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, at its first session after the entry into force of the Protocol, to consider ways to facilitate cooperation to enhance the individual and combined effectiveness of policies and measures under Article 2.1(b) of the Protocol,

Noting the Chairman's report (FCCC/SBSTA/2000/2) on the workshop held in Copenhagen from 11 to 13 April 2000, pursuant to decision 8/CP.4,

Appreciative of the contribution of the Governments of Denmark and France in sponsoring this workshop,

Recognizing that the implementation of policies and measures contributes to achieving the objectives of the Convention and the Protocol,

Recognizing also the value of information exchanges on "good practices" in policies and measures which are based on national circumstances, in furthering the objectives of the Convention and the Protocol,

1. *Decides*, in making preparations during the lead-up to the first session of the Conference of the Parties serving as the meeting of the Parties to the Protocol, in relation to Article 2.1(b) of the Protocol, to continue to facilitate cooperation among Parties included in Annex I in order to enhance the individual and combined effectiveness of policies and measures such as those in Article 2.1(a) of the Protocol, in particular by sharing experience and exchanging information at a technical level, and taking into account national circumstances;

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[10] This text was given restricted distribution at the first part of the sixth session, under the symbol FCCC/CP/2000/CRP.6.

[11] In the context of this decision, the term "good practice" replaces the term "best practice".

2. *Decides further* that the work referred to in paragraph 1 should take place under the guidance of the Subsidiary Body for Scientific and Technological Advice, *inter alia* through initiatives involving all Parties and, as appropriate, environmental and business non-governmental organizations, and should include the exchange of information on policies and measures undertaken by Annex I Parties in all relevant sectors and on cross-cutting and methodological issues;

3. *Decides* that this work should contribute to the improvement of transparency, effectiveness and comparability of policies and measures. To that end this work should:

(a) Enhance transparency in reporting on policies and measures in the national communications of Parties included in Annex I to the Convention through, as appropriate, criteria and quantitative parameters, and consider issues of methodology, attribution, and national circumstances;

(b) Facilitate information sharing on ways Annex I Parties have striven to implement policies and measures in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on developing country Parties taking into account information related to these issues provided by non-Annex I Parties;

(c) Assist Parties and the Conference of the Parties in identifying further options for cooperation between Parties included in Annex I and other interested Parties to enhance the individual and combined effectiveness of their policies and measures;

4. *Decides also* that this work should contribute to the elaboration of elements for reporting information on demonstrable progress pursuant to decision ... CP.6;

5. *Requests* the secretariat, under the guidance of the Subsidiary Body for Scientific and Technological Advice in collaboration with relevant international and intergovernmental organizations of Annex I and non-Annex I Parties active in the area of policies and measures to support this work by organizing, *inter alia*, workshops and side events and invites such organizations to provide input as appropriate and to present a status report on their activities related to policies and measures to the Subsidiary Body for Scientific and Technological Advice at its fifteenth session;

6. *Requests* the secretariat to make available the information on policies and measures implemented and planned related to this work as well as to provide information on policies and measures reported in the third national communications by Annex I Parties when available;

7. *Requests* the secretariat to organize the first workshop under this decision and to report the initial results of this work to the Subsidiary Body for Scientific and Technological Advice for consideration at its fifteenth session. This workshop will be held according to the terms of reference adopted by the Subsidiary Body for Scientific and Technological Advice at its fourteenth session based on submissions of Parties by 31 March 2001;

8. *Requests* the Subsidiary Body for Scientific and Technological Advice to consider at its fifteenth session the initial results obtained from the actions taken pursuant to this decision and to report them to the Conference of the Parties at its seventh session with a view to considering any further action;

9. *Invites* Annex I Parties and interested international organizations to provide the necessary financial support for the workshops and other activities identified in this decision.

IV. IMPACT OF SINGLE PROJECTS ON EMISSIONS IN THE COMMITMENT PERIOD (DECISION 16/CP.4)

(Agenda item 7 (g))

[Draft decision -/CP.6[12]

Impact of single projects on emissions in the commitment period

The Conference of the Parties,

Recalling its decision 1/CP.3, paragraph 5 (d),

Having considered the conclusions of the Subsidiary Body for Scientific and Technological Advice at its resumed thirteenth session,[13]

Recognizing the importance of renewable energy in meeting the objective of the Convention,

1. *Decides* that, for the purpose of this decision, a single project is defined as an industrial process facility at a single site that has come into operation since 1990 or an expansion of an industrial process facility at a single site in operation in 1990;

2. *Decides* that, for the first commitment period, industrial process carbon dioxide emissions from a single project which adds in any one year of that period more than 5 per cent to the total carbon dioxide emissions in 1990 of a Party listed in Annex B to the Protocol, shall be reported separately and shall not be included in national totals to the extent that it would cause the Party to exceed its assigned amount, provided that:

(a) The total carbon dioxide emissions of the Party were less than 0.05 per cent of the total carbon dioxide emissions of Annex I Parties in 1990 calculated in accordance with the table contained in the annex to document FCCC/CP/1997/7/Add.1;

(b) Renewable energy is used, resulting in a reduction in greenhouse gas emissions per unit of production;

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[12] This text was given restricted distribution at the first part of the sixth session, under the symbol FCCC/CP/2000/CRP.9.

[13] FCCC/SBSTA/2000/14.

(c) Best environmental practice is followed and best available technology is used to minimize process emissions;

3. *Decides* that the total industrial process carbon dioxide emissions reported separately by a Party in accordance with paragraph 2 above shall not exceed [1.6] million tonnes carbon dioxide annually on the average during the first commitment period and can not be transferred by that Party or acquired by another Party under Articles 6 and 17 of the Kyoto Protocol;

4. *Requests* any Party that intends to avail itself of the provisions of this decision to notify the Conference of the Parties, prior to its seventh session, of its intention;

5. *Requests* any Party with projects which meet the requirements specified above, to report emission factors, total process emissions from these projects, and an estimate of the emission savings resulting from the use of renewable energy in these projects in their annual inventory submissions;

6. *Requests* the secretariat to compile the information submitted by Parties in accordance with paragraph 5 above, to provide comparisons with relevant emission factors reported by other Parties, and to report this information to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.]

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